

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

SANG NAHM,

Defendant.

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Case No. 2:18-cv-6823

**COMPLAINT**

The plaintiff, United States of America, with the authorization of a delegate of the Secretary of the Treasury and at the direction of a delegate of the Attorney General of the United States, brings this action to collect a civil penalty assessed pursuant to 31 U.S.C. § 5321(a)(5) against Sang Nahm for his failure to timely report his financial interest in, or his signatory or other authority over, a foreign bank account for calendar years 2009 and 2010, as required by 31 U.S.C. § 5314 and its implementing regulations, as well as associated penalties and interest. In support of this action, the United States alleges as follows:

**Jurisdiction and Venue**

1. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1345, and 1355(a).
2. Sang Nahm (“the Defendant”) resides in Dix Hills, New York, which is within the jurisdiction of this Court. Venue is appropriate under 28 U.S.C. § 1391(b)(1).

**Defendant’s Failure to Timely Report Interest in Foreign Financial Accounts**

3. Upon information and belief, the Defendant was born in the Republic of Korea (“Korea”) and remains a citizen of Korea. The Defendant earned a business degree in 1983 from Georgetown University in Washington, D.C. He returned to Korea where he worked as a

successful investment banker until 2002. From 2003 through 2005, the Defendant was the chief financial officer for Michaela Corp., located in New York.

4. During calendar years 2009 and 2010, the Defendant resided in, or was otherwise subject to the jurisdiction of, the United States. The Defendant continues to own a home in New York and upon information and belief travels between New York and Korea.

5. During calendar years 2009 and 2010, the Defendant had a financial interest in, or signatory or other authority over, a bank, securities, or other financial account at Shinhan Bank (“Shinhan Account”) in Korea.

6. During calendar year 2009, the balance of the Shinhan Account exceeded \$10,000.00.

7. During calendar year 2010, the balance of the Shinhan Account exceeded \$10,000.00.

8. During calendar years 2009 and 2010, the Defendant had a financial interest in, or signatory or other authority over, a bank, securities, or other financial account at Samsung Securities (“Samsung Account”) in Korea.

9. During calendar year 2009, the balance of the Samsung Account exceeded \$10,000.00.

10. During calendar year 2010, the balance of the Samsung Account exceeded \$10,000.00.

11. The Defendant was required to file Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (“FBAR”), by June 30, 2010, for the Shinhan and the Samsung accounts for calendar year 2009.

12. The Defendant was required to file Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (“FBAR”), by June 30, 2011, for the Shinhan and the Samsung accounts for calendar year 2010.

13. The Defendant failed to timely file an FBAR for calendar year 2009.

14. The Defendant failed to timely file an FBAR for calendar year 2010.

15. The Defendant lacked reasonable cause for his failure to timely file the FBAR for the calendar years 2009 and 2010. He has extensive education in financial matters and signed his self-prepared income tax returns for calendar years 2009 and 2010 without identifying his two Korean accounts.

16. The Defendant signed two extensions of the statute of limitations for assessment of a civil penalty for the calendar year 2009, extending the statute of limitations from June 30, 2016 to June 30, 2017, and then to June 30, 2018.

#### **Assessment of the FBAR Penalty**

17. On December 20, 2016, in accordance with 31 U.S.C. §5321(a)(5), a delegate of the Secretary of the Treasury assessed a civil penalty (“FBAR Penalty”) against the Defendant, in the total amount of \$34,813.00, for his non-willful failure to timely report to the IRS his financial interest and signature authority over the Shinhan and Samsung Accounts during 2009 and 2010, as follows:

|         | 2009      |          | 2010        |          |
|---------|-----------|----------|-------------|----------|
| Account | Balance   | Penalty  | Balance     | Penalty  |
| Samsung | \$416,465 | \$10,000 | \$1,080,306 | \$10,000 |
| Shinhan | \$48,132  | \$4,813  | \$435,350   | \$10,000 |
| Total   | \$464,597 | \$14,813 | \$1,515,656 | \$20,000 |

18. On or about December 20, 2016, a delegate of the Secretary of the Treasury sent notice of the assessment of the FBAR Penalty and a demand for payment to the Defendant.

19. The United States has collected approximately \$4,000.00 from Mr. Nahm.

20. The balance due on the FBAR Penalty assessed against the Defendant, along with statutory additions and interest, including a late-payment penalty, is \$32,253.19 as of January 31, 2018.

21. This civil action to collect the FBAR Penalties, and the associated penalties for late payment under 31 U.S.C. § 3717(e)(2), and interest, is timely under 31 U.S.C. §5321(b)(2) because it is filed within two years of December 20, 2016, the date that the FBAR Penalties were assessed.

WHEREFORE, Plaintiff United States of America requests that:

(a) The Court enter judgment in favor of Plaintiff United States of America and against Defendant, for the FBAR Penalties for the 2009 and 2010 calendar years, as well as the associated late-payment penalty and interest, in the amount of \$32,253.19 as of January 31, 2018, plus interest and statutory accruals from and after that date until the liability is paid in full; and,

[Remainder of this page intentionally left blank.]

(b) That the Court award the United States such further relief, including the costs of this action, as the Court deems just and proper.

Dated: November 30, 2018

Respectfully submitted,

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General  
Tax Division, U.S. Department of Justice

/s/Sarah T. Mayhew  
SARAH T. MAYHEW  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 55  
Washington, D.C. 20044  
(202) 616-1929 (voice)  
(202) 514-5238 (fax)  
Sarah.T.Mayhew@usdoj.gov

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff

☐ 2 U.S. Government Defendant

☐ 3 Federal Question (U.S. Government Not a Party)

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

|                                         | PTF                        | DEF                        |                                                               | PTF                        | DEF                        |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation                                                | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

| CONTRACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | TORTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | FORFEITURE/PENALTY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | BANKRUPTCY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | OTHER STATUTES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <div><b>PERSONAL INJURY</b><br/><input type="checkbox"/> 310 Airplane<br/><input type="checkbox"/> 315 Airplane Product Liability<br/><input type="checkbox"/> 320 Assault, Libel &amp; Slander<br/><input type="checkbox"/> 330 Federal Employers' Liability<br/><input type="checkbox"/> 340 Marine<br/><input type="checkbox"/> 345 Marine Product Liability<br/><input type="checkbox"/> 350 Motor Vehicle<br/><input type="checkbox"/> 355 Motor Vehicle Product Liability<br/><input type="checkbox"/> 360 Other Personal Injury<br/><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</div> <div><b>PERSONAL INJURY</b><br/><input type="checkbox"/> 365 Personal Injury - Product Liability<br/><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br/><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br/><b>PERSONAL PROPERTY</b><br/><input type="checkbox"/> 370 Other Fraud<br/><input type="checkbox"/> 371 Truth in Lending<br/><input type="checkbox"/> 380 Other Personal Property Damage<br/><input type="checkbox"/> 385 Property Damage Product Liability</div> | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property                                                                                                                                                                                                                                                                                                                                                      | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>PRISONER PETITIONS</b><br><b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

**V. ORIGIN** (Place an "X" in One Box Only)

☐ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District (specify)

☐ 6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

**VI. CAUSE OF ACTION**

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

## CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, \_\_\_\_\_, counsel for \_\_\_\_\_, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,  
the complaint seeks injunctive relief,  
the matter is otherwise ineligible for the following reason

### **DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

### **RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

### **NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County?                      Yes                      No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County?                      Yes                      No
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District?                      Yes                      No
- c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:\_\_\_\_\_.

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?                      Yes                      No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

### **BAR ADMISSION**

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes                                              No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes      (If yes, please explain                      No

I certify the accuracy of all information provided above.

**Signature:**         /s/ Sarah T. Mayhew

Signature of Clerk or Deputy Clerk



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))***

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: